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ANNUAL REPORT FORM FOR AGGREGATORS

FOR REPORTING PERIOD OF July 1, 2008 to June 30, 2009

FOR AGGREGATOR REGISTRATION NO. 80009

FILED IN PROJECT NO. 26280, *Aggregator Annual Reports*

Part A: General Information

Part A is applicable to all Aggregators operating in the State of Texas.

1. **Aggregator Names:** Provide the Aggregator's legal name under which it is registered with the Commission, as well as any other trade or commercial names under which the Aggregator provides services.

Texas Cattle Feeders Association (TCFA)

2. **Contact Person for this Annual Report:** Provide name, title, address, telephone number, facsimile transmission number, and e-mail address.

Ben Weinheimer, Vice President

Texas Cattle Feeders Association 806-358-3681 - phone

5501 I-40 West 806-352-6026 - fax

Amarillo, TX 79106 ben@tcfa.org

3. **Aggregator Classification.** Under which classifications is the Aggregator currently registered: *Class I, Class II.A, Class II.B, Class II.C, and/or Class II.D?*

Class I.

4. **Scope of Registration.** If a Class I, Class II.A, or Class II.D, did the Aggregator register pursuant to §25.111(f)(1), the *Standard Registration* allowing aggregation of customers of any size, or pursuant to §25.111(f)(2), the *Alternative Limited Registration* (limited to customers contracting for 250 kilowatts peak demand)?

Standard Registration

5. **Activity with Customers.** Which of the following statements describe the Aggregator, the services it performs, and the customers it serves? (List all that are applicable: 5.a, 5.b, 5.c, 5.d, and/or 5.e). If more than one of these statements apply, explain how the Aggregator separates and distinguishes each activity from the other(s) to ensure compliance with § 25.111(d), which specifies different operational parameters for each class of aggregator.

- a. A person¹ that aggregates private² customers.
- b. A person that aggregates municipalities and/or other political subdivisions.
- c. A political subdivision corporation³ that aggregates municipalities and/or other political subdivisions.
- d. A municipality or other political subdivision that aggregates its citizens.
- e. An administrator of citizen aggregation.

TCFA serves 5a customers only.

6. **REP Affiliation.** Identify any relationship(s) that the Aggregator has with REPs. [25.111(b), (f)(1)(K), and (k)]

TCFA does not have an affiliation with any REP.

7. **Registration Changes:** Have there been any changes since the Aggregator's last Annual Report in the information registered with the Commission? If yes, provide the date and project number under which each change was filed with the Commission and briefly describe the change(s). In addition, list any pending proceedings pertaining to the Aggregator's registration.

There have been no changes to our registration.

Part B: Technical and Customer Protection Information

Class I, II.A and II.D Aggregators must answer *only* Questions 1-10. Class II.B Aggregators must answer *only* Questions 11 – 15. Class II.C Aggregators must answer *only* Questions 16-20.

Class I, II.A and Class II.D Aggregators:

1. **Aggregation Information.** Complete the attached *Chart A—Aggregation Information*, concerning customer types, contracted REPs, and compensation sources for each aggregation performed by the Aggregator. [§§25.111(f)(1)(F) and (M)]

Chart A is attached.

2. **Marketing Policies and Practices.**

TCFA does not offer any separate marketing.

¹ The definition of "person" includes an Individual, Partnership, Corporation, or Mutual or Cooperative Association, but not a Political Subdivision Corporation, municipal corporation, electric cooperative, county, hospital district, or other political subdivision.

² In this question, "private" customers are any that are not a Political Subdivision Corporation, municipal corporation, county, hospital district, or other political subdivision.

³ A Political Subdivision Corporation is a specific arrangement among municipalities and/or other political subdivisions that is specified in LGC 304.001.

- a. Without supplying actual marketing materials, provide a summary explanation of the Aggregator's marketing policies and procedures utilized to obtain customer load. Include mention of how and when the Aggregator discloses its compensation sources in relation to executing contracts and, if compensation is rebated from the REP, whether and how that compensation is reflected on the customer's retail electric bill from the REP. [§25.111(b) and (i)(2) and 25.474]

TCFA assists members with many issues, registration as an aggregator is an extension of services provided to our members. Our goal is to aggregate loads of TCFA members to obtain competitive rates. At this time, aggregation of our members has not occurred.

- b. List any and all Internet addresses used by the Aggregator or its third party contractor or marketing agent to market or solicit or obtain aggregated load and/or to provide aggregation services. [§§25.111(b) and (i)(2) and 25.474]

As explained above, TCFA does not aggregate members at this time. However, our existing homepage may be used in the future at www.tcfa.org.

- c. If the Aggregator contracted with or relied on a third party and/or marketing agent to obtain aggregated customer load or to otherwise provide aggregation services, list each person or company's name, contact person, physical address, telephone number, and date of contract. [§§25.111(b) and (i)(2) and 25.474]

TCFA does not rely on any third parties.

3. **Licensure Status.** Has the Aggregator had any registration/license/permit suspended or revoked in any state or by a federal authority? If yes, provide the (a) action type, (b) docket/citation number, (c) court/agency, and (d) final disposition. [§25.111(j)(6)] .

TCFA has not had any registration/license/permit suspended or revoked in any state or by any federal authority.

4. **Complaint History.** Provide a summary of complaints filed since the last report against the Aggregator or against any affiliates of the Aggregator that provide utility-related services⁴ with any state or federal regulatory agency in states other than Texas, including (a) Aggregator or affiliate name, (b) regulatory agency, (c) total number of complaints, and (d) complaint types (e.g., customer service, unauthorized change of utility, unauthorized charge). [§§25.111(f)(1)(Q) and (i)(2)]

TCFA has not had any complaints.

5. **Legal Disclosures.** Since the last report, has the Aggregator or its principals, officers or directors been (1) convicted or found liable for fraud, theft, larceny, deceit, or violations of any customer protection or deceptive trade laws in any state, (2) convicted for violation of any state or federal criminal laws, (3) found liable for violation of any state or federal civil laws, or (4) penalized by any attorney general, state or federal regulatory

⁴ P.U.C. SUBST. R. 25.111(f)(Q)(i) characterizes "utility-related services" as those services "such as telecommunications, electric, gas, water, or cable service."

agency? If yes, provide the (a) violation type, (b) docket/citation number, (c) court/agency, and (d) final disposition including penalty assessed. [§25.111(f)(1)(O) and (j)(7)]

Neither the aggregator nor its principals have been convicted or found liable of any violations listed in this section.

6. **Other Registrations.** For Aggregators whose legal structure requires registration with the Texas Comptroller of Public Accounts or with the Texas Office of the Secretary of State (SOS): List and explain any instances where the Aggregator was “not in good standing” with the Comptroller’s office or any instances where the Aggregator failed to maintain “active status” with the SOS. Include explanation of any corrective action taken. [§25.111(f)(1)(G)-(H)]

This has not occurred with TCFA.

7. **Landlord-Tenant Arrangements.** Have any aggregations during the reporting period involved agreements between the Aggregator and property owners/managers for energy services to their tenants? If yes, explain the relationship and state how the tenant’s independent choice of electricity provider is preserved by the arrangement. Include all supporting documentation.

This arrangement is not applicable to TCFA.

8. **Billing Agent.** Does the Aggregator function as a billing agent for any REP (that is, does the Aggregator process the REP’s billings for energy services to its retail customers)? If yes, list the REPs for which the Aggregator serves as a billing agent.

TCFA does not serve as the billing agent.

9. **Locations Served.** List each zip code and census tract in which at least one customer is served by a REP via a contract that was negotiated by the Aggregator.

TCFA did not serve any customers during the reporting period.

10. **Estimated Savings.** Provide an estimate of the total annual savings achieved by the Aggregator for retail electric customers in relation to (1) the Price to Beat and (2) the amounts paid in 2001. Explain the assumptions and methods used in the calculation.⁵

⁵ Due to the complex structure of many electric rates, a comparison of savings achieved by one rate over another usually involves computing a customer’s bill under each rate structure, assuming a single load/usage pattern. Therefore, the instructions for this reporting requirement are as follows: At issue are the total charges (including, for example, transmission and distribution charges, non-bypassable charges, and aggregator fees) for which the electric customer will be held responsible. For each of the aggregation contracts executed by the Aggregators in the reporting year, select the most relevant 12-month historical usage data available (the one used in preparation of the aggregation contract is likely suitable). Calculate the total annual dollar amounts that would be due under (a) the terms of the aggregation contract, (b) the PTB, and (c) 2001 rates. Across all of the aggregation contracts executed in the reporting year, sum the totals calculated for each under (a), (b), and (c) above. Using these totals, calculate (1) the percent savings in relation to PTB as $[(b)-(a)] \times 100 \div (b)$, and (2) the percent savings in relation to 2001 rates as $[(c)-(a)] \times 100 \div (c)$. If a different methodology for estimating savings is necessitated by the Aggregator’s data or business systems, the Aggregator’s explanation should include the ways in which its

[NOTE: Class II.D Aggregators do not need to report the Question B-10 information for the citizen aggregation programs they administer; rather, in the course of such administration, they may assist the associated Class II.C Aggregator(s) in reporting the information.]

TCFA did not serve any customers during this period.

Class II.B (Political Subdivision Corporation) Aggregators:

Not Applicable to TCFA

11. **Membership List.** List the municipalities and/or other political subdivisions currently represented by the political subdivision corporation.
12. **List of REPs.** List each REP with which the political subdivision corporation has contracted to provide energy services for the public facilities of two or more of its members.
13. **Locations Served:** List the zip codes and census tracts included in the boundaries of the member political subdivisions that are served with electricity by function of the Aggregator.
14. **Estimated Savings.** Provide an estimate of the total annual savings achieved by the Aggregator for its member political subdivisions in relation to (1) the Price to Beat and (2) the amounts paid in 2001. Explain the assumptions and methods used in the calculation.⁶
15. **Taking Title.** Does the Class II.B Aggregator take title to electricity? If yes, list the business names under which the Aggregator resold electricity,

Class II.C Aggregators (Political Subdivisions Conducting Citizen Aggregation):

Not Applicable to TCFA

16. **Participation Level.** How many residents were participating in the Aggregator's citizen aggregation program as of the end of the reporting period (last June 30)?
17. **Subcontracting the Administration.** Has the Aggregator contracted with a third party or another aggregator for the administration of its aggregation of electricity and energy services purchased for its requesting citizens, pursuant to Local Government Code § 304.002(b)? If yes, provide the third party administrator's name, address, telephone number and, if also an aggregator, its Commission registration number. [§§25.111(d)(4)(B)(C) and (e)(8); LGC §304.002]
18. **Verification of Customer Request.** Has the Aggregator obtained and maintained on file verifiable documentation that the citizens who participated in the aggregation expressly,

calculations conform or deviate from this model and/or any assumptions necessary to calculate its estimated savings to retail electric customers.

⁶ *Id.*

knowingly, and voluntarily elected to participate in the Aggregator's citizen aggregation program? If yes, provide a copy of the consent form used for signature, script used for audio verification, or any other verification documentation. [§§25.111(d)(4)(D) & (e)(8)].

19. **Locations Served:** List each zip code and census tract in which at least one resident participates in the Aggregator's citizen aggregation program.
20. **Estimated Savings.** Provide an estimate of the total annual savings achieved by the Aggregator for residential customers that participate in the Aggregator's citizen aggregation program in relation to (1) the Price to Beat and (2) the amounts paid in 2001. Explain the assumptions and methods used in the calculation.⁷

Part C: Financial Information

Part C is applicable only to Class I, Class II.A and Class II.D Aggregators. Aggregators that are not registered under one or more of these Classes do not need to complete *Part C*, and should proceed to the Affidavit.

Questions in *Part C* refer to the most recent July-to-June reporting period, as well as to any subsequent time for which information relating to these questions is reasonably known and available to the Aggregator. The Commission anticipates that the supporting documentation for the Aggregator's responses to Questions Nos. 4.a.I and 5.b are proprietary in nature.

Questions Applicable to All Class I, II.A and II.D Aggregators:

1. **Financial Integrity.** Has the Aggregator sought bankruptcy protection, become insolvent, or otherwise has been unable to meet its financial obligations on a reasonable and timely basis? If yes, explain, including any corrective action. [§25.111(j)(5).]

No.

2. **Customer Prepayments.** Has the Aggregator taken any deposits or other advance payments from electricity customers? If yes, provide the following:

No.

- a. A descriptive list of the kinds of services for which the prepayments were taken by the Aggregator; and
- b. The project number of the proceeding in which the Aggregator obtained Commission approval to take prepayments (that is, the initial registration or any subsequent amendment; if none, explain).

⁷ *Id.* Follow the instructions for Questions B-10 and B-14 to the extent feasible, explaining any differences in methodology. If all residential customers in the citizen aggregation had a single rate before the citizen aggregation, and experienced the same change in rate due to the aggregation, then the percent change from the PTB and from 2001 could be calculated from the rates themselves without using annual historical usage patterns.

3. **Ongoing Status.** To the best of its knowledge, is the Aggregator aware of anything else, or does it anticipate any potential events before the next report, including anything related to prepayments if applicable, which would be pertinent to its future financial integrity as an Aggregator operating in the State of Texas? If yes, explain.

No.

Questions Applicable Only to Aggregators Who Take Prepayments:

An Aggregator taking customer prepayments in Texas must respond to either Question 4, if it is registered pursuant the Standard Registration, or Question 5, if it is registered pursuant to the Alternative Limited Registration. The term "customer prepayments" is used here to include both the "customer deposits" and "other advance payments" specified in § 25.111.

4. **Standard Registrants.** Is the Aggregator taking customer prepayments pursuant to §25.111(g)(1), Standard Financial Qualifications? If yes, answer the following questions:

Not applicable to TCFA. No prepayments are accepted.

- a. **Financial Qualifications.** Depending on the financial method that the Aggregator uses to meet its Standard Financial Qualifications, respond to either alternative, I or II, below: [§25.111(g)(1)(A)-(D)]

- I. Financial Evidence.** Provide a detailed description of the financial evidence used. [§25.111(g)(1)(A)]

In addition, provide the highest amount of customer prepayments received in any month, as well as the December amount if different. Also, provide independent, third party verification of the amount of cash resources available during those months.

If during any month, the Aggregator *either* failed to maintain an excess of cash resources over customer prepayments, *or* the Aggregator ever reduced the level of financial resource support for its prepayments, provide these customer prepayments and cash resources for every month.

- II. Investment Grade Credit.** Provide independent, third-party verification of that credit rating. [§25.111(g)(1)(D).]

If the amount of financial resources subject to the investment grade rating is limited, the Aggregator must provide the highest amount of customer prepayments received in any months, as well as the December amount if different. If during any month, the Aggregator failed to maintain a financial resource limitation exceeding customer prepayments, provide the data for every month.

- b. **Financial Records.** Does the Aggregator maintain detailed financial records of its customer prepayments on an ongoing basis? (These customer records may

- be inspected by the Commission on request.) If not, explain this deficiency. [§25.111(i)(7)(A).]
- c. **Ninety-Day Affidavit.** Has the Aggregator filed the sworn affidavit, demonstrating compliance with its financial requirements, which is required within 90 days of receiving the first payment for aggregation services? If yes, provide a copy of the affidavit that identifies the date it was filed. If no, explain. [§25.111(i)(7)(B).]
 - d. **External Notice.** Has the Aggregator relied on an external party, either directly or indirectly, for the financial resources needed to meet its standard financial qualification? If yes, provide evidence that a copy of the Aggregator Rule has been provided to such party, pursuant to §25.111(g)(1)(E). If no notification had been provided, explain.
 - e. **Changing Evidence.** Since the last report, has the Aggregator changed the kind of evidence used to meet its financial qualification? If yes, provide the project number(s) for the amendment proceeding(s) that made this change in the Aggregator's registration. If the financial evidence has changed without an amendment process, explain.
5. **Limited Registrants.** Is the Aggregator taking prepayments under the authority of §25.111(g)(2), the Alternative Financial Qualifications for Limited Registration (limiting business only to customers who contract for 250 kilowatts or more of peak demand electricity)? If yes, answer the following questions:

Not applicable to TCFA. No prepayments are accepted.

- a. **Notarized Affidavit.** Has the Aggregator obtained and maintained on file notarized affidavits from each customer stating that the Aggregator does not need to establish the cash and other financial resources otherwise needed to protect customer prepayments? If no, explain. (These affidavits may be inspected by the Commission on request.) [§25.111(g)(2)(A).]
- b. **Customer Registry.** Provide a list of the Aggregator's customers, including their full names, addresses and telephone numbers. (These customers may be contacted by the Commission.)

AFFIDAVIT

STATE OF TEXAS §
COUNTY OF TRAVIS §

1. My name is Ben Weinheimer. I am Vice President [legal title] of the reporting Aggregator, Texas Cattle Feeders Association [Aggregator name].

2 I swear and affirm that (check one):

☒ I am an owner, partner, or officer of the registering party, which is registering as a Class I, Class II.A, and/or a Class II.D aggregator.

☐ I am an owner, partner, or officer of the registering party, which is registering as a Class II.B or Class II.C aggregator.

3. I swear and affirm that I have personal knowledge of the facts stated in this Aggregator Annual Report, that I am competent to testify to them, and that I have the authority to make this Report on behalf of the reporting Aggregator. I further swear or affirm that all of the statements and/or representations made in this Report are true, complete, and correct. I swear or affirm that the reporting Aggregator is not in material violation of any of the requirements of its registration. I swear or affirm that, if any material violation of the requirements of its registration occurred subsequent to the reporting period applicable to this Report, the reporting Aggregator has notified the Commission of same. I swear or affirm that the reporting Aggregator understands and will comply with all requirements of applicable law and rules.

4. I swear and affirm that the Aggregator is not in violation of any customer protection, disclosure requirements, marketing guidelines, and anti-discrimination laws or Commission rules.

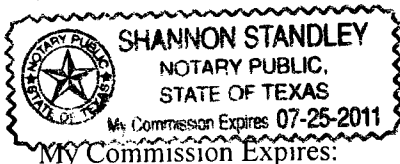
5. I swear and affirm that any assertions of confidentiality regarding this response have been made with a good faith belief that an exception to public disclosure under Chapter 552 of the Texas Government Code applies to the information provided.

Ben Weinheimer
Signature of Affiant/Responsible Party

Ben Weinheimer
Typed or Printed Name

Texas Cattle Feeders Association
Name of Reporting Aggregator

SWORN TO AND SUBSCRIBED TO BEFORE ME on the 4th day of
December, 20 09.



Shannon Standley
Notary Public in and for the
State of Texas

7-25-2011

